

PLANNING DEPARTMENT
County of Hawaii
Hilo, Hawaii

APPLICATION FOR ADMINISTRATIVE VARIANCE)
by)
INTERISLAND RESORTS, LTD.) ADMINISTRATIVE
from) VARIANCE NO. 29
Maximum Allowable Height Limit and)
Minimum Setback Requirement)
in)
Keauhou, North Kona, Hawaii)

ADMINISTRATIVE VARIANCE PERMIT

An administrative public hearing was held by the Planning Director of the County of Hawaii Planning Department on August 19, 1980, on the application of INTERISLAND RESORTS, LTD. for a variance from the maximum allowable height limit and minimum setback requirement, more specifically, to allow the construction of a convention center at a height of 37+ feet in lieu of the maximum allowable limit of 30 feet as stipulated within the Village Commercial (CV) zoned district, and to allow the building with zero (0) side yard setbacks (building to be constructed across property lines) in lieu of the minimum requirement of eight (8) feet at Keauhou, North Kona, Hawaii, Tax Map Key 7-8-10:38 and 39.

After hearing the case, the Planning Director has found:

That there are special and unusual circumstances applying to the subject properties and the proposed improvement which generally do not apply to other properties and their improvements in the SMA zoned district.

First of all, in regards to the request to allow no side yard setbacks or to allow the convention center to be constructed across the side property lines of parcels 38 and 39 of TMK 7-8-10, there are certain unusual circumstances which necessitates the variance. These two (2) parcels are owned by Kamehameha Investment Corporation and leased to Interisland Resorts, Ltd. It is the owner's preference to retain these two (2) parcels as separate lots rather than to consolidate them. Since the petitioner merely leases the parcels, it must abide by Kamehameha Investment Corporation's decision to retain both lots as separate entities. In light of the predicament in which the petitioner is faced with, it is determined that there exist certain unusual circumstances which, in a way, deprives the petitioner of substantial property rights which would otherwise be available, and also to a degree which obviously interferes with the best use or manner of development of the properties.

With regard to the request to allow the construction of a convention center at a height of 37+ feet in lieu of the maximum allowable height limit of thirty (30) feet as stipulated within the Village Commercial (CV) zoned district, it is also determined that there are special and unusual circumstances applying to the subject building and its intended use which do not generally apply to other properties and their improvements in the same zoned district. The primary purpose of establishing a height limit within specific zoned districts is so that a particular building will not dominate the other buildings, and also, that that building would not visually dominate the landscape.

In this particular case, the convention center will be an integral part of the Kona Surf Hotel complex as well as the entire Keauhou Resort Community. As far as practicable, the proposed building is intended to be constructed in such a manner as not to distract from the other buildings within the Keauhou area. However, uses of this nature normally would require additional height as compared with other uses allowed within this zoned district. As a multiple use structure, the convention center would require additional facilities, such as an audio visual projection area, which would necessitate the additional height. In this particular case, the audio visual projection area will be located on the mezzanine level. Because of the general internal set-up or characteristics of such a use, in certain cases such as this, it is determined that the additional height is a necessity; mainly from a functional standpoint.

Further, the convention center will be structurally attached to the existing Kona Surf Hotel, which was constructed at a height of 80+ feet. Because of its siting in relationship to the hotel, the visual dominance of the convention center will be greatly softened. This building will also be bordered by the golf course and the parking area; and thus, will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to the surrounding properties.

It should be noted that the landowner, Kamehameha Investment Corporation, has recently filed an application to rezone parcel 39 from a CV to a Resort-Hotel zoned district. Should this rezoning request be approved, then the height of the convention center will meet with the height limit of ninety (90) feet as established for the Resort-Hotel zoned district. In this particular case, however, timing of the construction of the convention center is a critical factor since no decision has been made as yet on the pending rezoning request.

Based on the circumstances presented above, it is determined that the granting of the variance requests will not necessarily constitute a grant of personal or special privilege inconsistent with the limitations placed upon other properties under identical district classification. Further, it is determined that the granting of the variances will not substantially be inconsistent with the intent and purpose of the Zoning Code, nor will it militate against the General Plan.

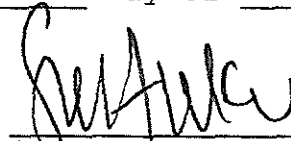
Therefore, the Planning Director hereby grants to the applicant a variance to allow the construction of a convention center at a height of 37+ feet in lieu of the maximum allowable limit of 30 feet as stipulated within the Village Commercial (CV) zoned district, and to allow the building with zero (0) side yard setbacks (building to be constructed across property lines) in lieu of the minimum requirement of eight (8) feet at Keauhou, North Kona, Hawaii, pursuant to the authority vested in him by the County Charter, subject to the following conditions:

1. That the conditions as outlined in Special Management Area (SMA) Use Permit No. 135 be complied with.
2. That the requirements of the Building Code as administered by the Department of Public Works be complied with, which may include the approval from the Board of Appeals in straddling the property lines.
3. That all other applicable rules, regulations, and requirements be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

The effective date of this permit shall be from August 21, 1980.

Dated at Hilo, Hawaii, this 31st day of October, 1980.



SIDNEY M. FUKE, Director
Planning Department

APPROVED AS TO FORM AND LEGALITY:



Deputy Corporation Counsel
County of Hawaii

Date: 28 Oct 80

CERTIFIED MAIL

August 21, 1980

Mr. Clifford Lum
297 Waiianuenu Avenue
Hilo, Hawaii 96720

Dear Mr. Lum:

Variance Application (V80-14)
Interisland Resorts, Ltd.
Maximum Allowable Height and Minimum Setback Requirements
Tax Map Key: 7-8-10:38 and 39

Please be informed that after reviewing your application and the information presented at the administrative hearing on August 19, 1980, the Planning Director is certifying the approval of the request filed by Interisland Resorts, Ltd. The reasons for the approval are as follows:

That there are special and unusual circumstances applying to the subject properties and the proposed improvement which generally do not apply to other properties and their improvements in the SMA zoned district.

First of all, in regards to the request to allow no side yard setbacks or to allow the convention center to be constructed across the side property lines of parcels 38 and 39 of TMK 7-8-10, there are certain unusual circumstances which necessitates the variance. These two (2) parcels are owned by Kamehameha Investment Corporation and leased to Interisland Resorts, Ltd. It is the owner's preference to retain these two (2) parcels as separate lots rather than to consolidate them. Since the petitioner merely leases the parcels, it must abide by Kamehameha Investment Corporation's decision to retain both lots as separate entities. In light of the predicament in which the petitioner is faced with, it is determined that there exist certain unusual circumstances which, in a way, deprives the petitioner of substantial property rights which would otherwise be available, and also to a degree which obviously interferes with the best use or manner of development of the properties.

Mr. Clifford Lum
Page 2
August 21, 1980

With regard to the request to allow the construction of a convention center at a height of 37+ feet in lieu of the maximum allowable height limit of thirty (30) feet as stipulated within the Village Commercial (CV) zoned district, it is also determined that there are special and unusual circumstances applying to the subject building and its intended use which do not generally apply to other properties and their improvements in the same zoned district. The primary purpose of establishing a height limit within specific zoned districts is so that a particular building will not dominate the other buildings, and also, that that building would not visually dominate the landscape.

In this particular case, the convention center will be an integral part of the Kona Surf Hotel complex as well as the entire Keauhou Resort Community. As far as practicable, the proposed building is intended to be constructed in such a manner as not to distract from the other buildings within the Keauhou area. However, uses of this nature normally would require additional height as compared with other uses allowed within this zoned district. As a multiple use structure, the convention center would require additional facilities, such as an audio visual projection area, which would necessitate the additional height. In this particular case, the audio visual projection area will be located on the mezzanine level. Because of the general internal set-up or characteristics of such a use, in certain cases such as this, it is determined that the additional height is a necessity; mainly from a functional standpoint.

Further, the convention center will be structurally attached to the existing Kona Surf Hotel, which was constructed at a height of 30+ feet. Because of its siting in relationship to the hotel, the visual dominance of the convention center will be greatly softened. This building will also be bordered by the golf course and the parking area; and thus, will not be materially detrimental to the public welfare nor be injurious to improvements or property rights related to the surrounding properties.

It should be noted that the landowner, Kamehameha Investment Corporation, has recently filed an application to rezone parcel 39 from a CV to a Resort-Hotel zoned district. Should this rezoning request be approved, then the height of the convention center will meet with the height limit of ninety (90)

Mr. Clifford Lum
Page 3
August 21, 1980

feet as established for the Resort-Hotel zoned district. In this particular case, however, timing of the construction of the convention center is a critical factor since no decision has been made as yet on the pending rezoning request.

Based on the circumstances presented above, it is determined that the granting of the variance requests will not necessarily constitute a grant of personal or special privilege inconsistent with the limitations placed upon other properties under identical district classification. Further, it is determined that the granting of the variances will not substantially be inconsistent with the intent and purpose of the Zoning Code, nor will it militate against the General Plan.

The approval, however, is subject to the following conditions:

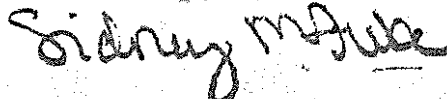
1. That the conditions as outlined in Special Management Area (SMA) Use Permit No. 135 be complied with.
2. That the requirements of the Building Code as administered by the Department of Public Works be complied with, which may include the approval from the Board of Appeals in straddling the property lines.
3. That all other applicable rules, regulations, and requirements be complied with.

Should any of the foregoing conditions not be met, the Variance Permit may be deemed null and void.

The official Variance Permit will be forwarded under separate cover.

Should you have any questions, please feel free to contact Norman Hayashi of this office at 961-8288.

Sincerely,



SIDNEY FUKU
Director

NH:lkt

cc: Robert Herkes
Department of Public Works

bcc: SMA File No. 135
PA File (via Rodney)